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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,734	10/02/2000	Einar Hansson	I	3417

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AGERE SYSTEMS INC.  
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EXAMINER
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KUMAR, PANKAJ

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b>	<b>Application No.</b> 09/677,734	<b>Applicant(s)</b> HANSSON, EINAR	
	<b>Examiner</b> Pankaj Kumar	<b>Art Unit</b> 2631	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: amendments to the claims.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-5,8-12,16 and 17.

Claim(s) objected to: 13,18-22 and 24-28.

Claim(s) rejected: 14 and 23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: interview summary and additional comments are attached

**TESFALDET BOGURE  
PRIMARY EXAMINER**

Art Unit: 2631

1/13/2005

David Cargille called at about 4:45pm requesting an interview for tomorrow. He wants to discuss phase detector and phase selector and ff being a phase detector and using an output from the lookup table to select. I said and he agreed to have the interview tomorrow at 6pm given I have enough time to prepare for the interview.

1/14/2005

Applicant discussed his invention including having a feedback to select the phase. I indicated that this was not claimed. They indicated that they had an issue with the way phase detector was applied in the reference and that the combinational circuit is the phase detector and so there is no phase selector. I indicated that claims are as broadly interpreted as reasonable and although the reference does not teach the applicant's specification, the claims are taught by the reference.

Since the clock inputs of the D-flip/flops were detecting the phase inputs in fig. 6 of Cotton, the D-flip/flops were detecting the phase. Thus, the combinatorial circuit is not the phase detector. The combinatorial circuit is the phase selector since based on its SMPLPOSN\_IN input, phases are selected to be high or low. So if Ds are 1100 and SMPLPOSN\_IN is 1, 170 has DAT\_OUT of 1 (as in fig. 8b), then 170 has selected as shown in fig. 7 line 13, phase 0 being high, phase 1 being high, phase 2 being low, and phase 3 being low.

They suggested rewording such that the phase detector looks up the binary numbers. I said that this would overcome the reference. They asked if this would require another RCE. I said yes since it is new matter and requires further search.

They said it is not new matter since the limitations were already in the claims. This is not persuasive since the claims merely said phase detector and looking up binary numbers. The claims did not say that the phase detector looks up the binary numbers. They said that it would not require further search since I have already searched for broad phase detector and they are merely narrowing by putting in that the phase detector is looking up binary numbers. I said this is similar to a person claiming a receiver and after I search and find a receiver, they claim a digital receiver and so since I have already searched for a receiver, the digital receiver is with in that search. But actually, I would have to now search for a digital receiver within the many reference of receiver. They said that this is not a correct analogy. They said a better analogy is if they claim a transmitter and a receiver and then they change to claim a receiver. I disagree with their analogy. They said since the amendment they file will not be entered, they will consider appealing.

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**Additional comments:**

After reviewing the advisory action form, applicant's amendments not only require further search, but they also require further consideration.

Also, since the applicant wanted to use the transceiver example, a more analogous example is if one claims a system comprising two components: a transmitter and a receiver. And then they change to a system comprising two components: a transceiver and a receiver. This would also require further search and consideration just like applicant's amendments.